

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry Innovation and Science Portfolio
2015-16 Supplementary Budget Estimates Hearing
22 October 2015

DEPARTMENT: DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

TOPIC: Staffing – employment non-Australian citizens

REFERENCE: Written Question – Senator Ludwig

QUESTION No.: SI-112

I refer you to section 22 (8) of the Public Service Act 1999 which says:

"An Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so."

1. Does the department have guidelines or similar to assist Agency Heads to assess when it is appropriate to hire non-Australian citizens? If no, do individual agencies have their own guidelines? If yes to either:

1. Please provide a copy.

2. When did they come into effect?

3. Can Agency Heads decide to go against the advice? If yes, under what circumstances?

2. Are Agency Heads required to provide a reason to anyone for hiring non-Australian citizens? If yes:

1. Who are they required to report the reason to?

2. Does this reporting happen before or after the hire has been made?

3. Is this reason provided in writing? If no, how is it provided?

4. Can you please provide a list of reasons that have been used since the Federal election in September, 2013.

3. Are there any provisions to over-rule a Head of Agency's decision to hire a non-Australian citizen? If yes:

1. Who can over-rule this decision?

2. Under what circumstances can it be over-ruled?

3. How many times has this occurred since the Federal election in September, 2013.

ANSWER

The Department of Industry, Innovation and Science does not have written guidelines for considering the hire of non-Australian citizens. However, in coming to a decision about hiring non-Australian citizens, the Agency Head and/or delegate is provided with assurance of the genuine need for the agency to seek someone who is not an Australian citizen. For example: if particular skills and professional qualifications are needed to perform a role, and these are not available in Australia, then it may be appropriate to engage a non-Australian citizen who does possess the skills and qualifications required to perform the role.

The Agency Head is not required to provide reasons or report on the hiring of non-Australian citizens.

There is no provision under the PS Act to overrule an Agency Head decision. However, any issues identified during the security clearance process will inform the Agency's decision about whether a person can enter employment with the Agency and APS.